REMARKS

The Office Action and the cited and applied references have been carefully reviewed. Claims 16-18 are allowed. Claims 1-15 and 19 also appear in this application and define patentable subject matter warranting their allowance. Reconsideration and allowance are hereby respectfully solicited.

Claims 1-10 have been rejected under 35 U.S.C. §112, first paragraph, because the examiner states that the specification, while being enabling for monoclonal antibodies produced from hybridoma I-2068, does not reasonably provide enablement for use of other monoclonal antibodies in the method of claims 1-10. This rejection is obviated by the amendment to claim 1 to recite that the monoclonal antibody used in the claimed process is produced by the deposited hybridoma I-2068.

Reconsideration and withdrawal of this rejection are therefore respectfully requested.

Claims 16-18 have been rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the enablement requirement. This rejection is obviated by the executed declaration of biological materials deposit attached hereto. The specification at page 11 is also now amended to provide the address of the named depository Collection National de Cultures de Microorganismes (CNCM) and a copy of the deposit receipt is attached hereto. Even though the executed declaration of biological materials deposit does not check the items in

paragraphs 4 and 5, it is clear from the deposit receipt that the deposit is made the Budapest Treaty and with an official depository.

Reconsideration and withdrawal of this rejection are therefore respectfully requested.

Claims 1-10 and 16 have been rejected under 35 U.S.C. §112, second paragraph, as being indefinite.

To clarify with regard to claims 5-8, it should first be pointed out that the method uses anti-IL5 receptor antibodies and not anti-IL5 antibodies. Secondly, when detecting and quantifying cells with one monoclonal antibody according to the invention, it is possible that the antibody recognizes more than one type of cells. It may be necessary to separate such cells by cell type. Thus, it can be useful to have a second marker specific for one type of cell that permits the discrimination of different types of cells. One method to discriminate the cells is to have a second antibody which is different from the monoclonal antibody of claim 1 and which recognizes the second marker. When according to claim 5 two different antibodies are used, this permits discrimination between cells which bear two markers and cells which bears only one. This means that according to an embodiment of the invention, the method of claim 1 may further include at least one supplementary antibody besides the monoclonal antibody recited in claim 1. This is the object of claim 5, which recites this in general terms. More precisely, the specification on page 5, lines 17 to page 6, line 2, teaches that as eosinophils and basophils do not express CD3, CD16 and CD19, using antibodies directed to these markers permits the exclusion of cells of cell types other than eosinophils and bsophils,

which other cell types express CD3, CD16 and CD19. This permits one to obtain a purer preparation of eosinophils and basophils.

Regarding the examiner's question on whether a label is required in claim 1 on the anti-IL5 receptor antibody, the answer is no. If an antibody binds to eosinophils and/or basophils, then it is possible to use conventional methods that physically trap the bound antibodies (for example chromatography column) to isolate eosinophils and/or basophils. Such well known methods in the art do not require labeling the antibody.

Claims 1 and 2 are directed to the detection or quantification of eosinophils and basophils. In the blood, there are activated and non activated eosinophils. Claims 9 and 10 are directed to activated eosinophils. Thus claims 9 and 10 do indeed further limit claims 1 and 2.

The claims all satisfy the requirements of 35 U.S.C. §112, second paragraph. Reconsideration and withdrawal of the rejection are therefore respectfully requested.

Claim 11 has been rejected under 35 U.S.C. §102(e) as being anticipated by Koike et al., U.S. Patent 6,018,032. This rejection is respectfully traversed.

The presently claimed anti-IL5R antibody is positively recited as not inhibiting the biological activity of IL-5. By contrast, Koike discloses anti-IL5 receptor antibodies that <u>expressly inhibit the activity of IL-5</u>. See column 4, lines 38-44, which teaches that Koike's antibodies inhibit the biological activity of IL-5.

Accordingly, Koike does not anticipate the anti-IL5R antibody claimed in claim 11.

New claim 20 is directed to the specific anti-IL5 receptor antibody produced by the deposited hybridoma I-2068.

Reconsideration and withdrawal of the rejection are therefore respectfully requested.

Claims 1-4 have been rejected under 35 U.S.C. §102(a) as being unpatatenable over Koike in view of Monahan and further in view of Gerard et al., U.S. Patent 6,537,764.

Claims 5 and 6 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Koike in view of Monahan and further in view of Gerard et al., U.S. Patent 6,537,762.

Claims 7 and 8 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Koike in view of Monahan and further in view of Fureder et al., *Eur. J. Allergy Clin. Immunol.* 49(10):861-865 (1994).

The above three §103(a) rejections are obviated by the amendment to claim 1 to positively recite that the anti-IL5R antibody is produced by a specific deposited hybridoma I-2068,

Reconsideration and withdrawal of these 103(a) rejection are therefore respectfully requested.

Claims 12-15 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Jackson et al., U.S. Patent 5,776,709, in view of Koike. This rejection is respectfully traversed.

Neither Jackson nor Koike discloses an anti-IL5 receptor monoclonal antibody presenting the properties as recited in claim 11.

In particular, neither Jackson nor Koike describes an anti-IL-5R (anti-receptor) monoclonal antibody characterized by the absence of inhibition of the biological activity of IL-5. Thus, combining the teaching of Jackson and Koike cannot lead one of ordinary skill in the art to the present invention since there is no suggestion for a kit containing such an antibody.

Reconsideration and withdrawal of the rejection are therefore respectfully requested.

In view of the above, the claims comply with 35 U.S.C. §112 and define patentable subject matter warranting their allowance. Favorable consideration and early allowance are earnestly urged.

Respectfully submitted,

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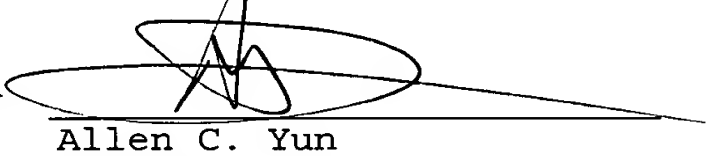
By 
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